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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,143	04/21/2004	John H. Schneider	769-281 DIV1	7840
29540	7590	04/19/2005	EXAMINER	
PITNEY HARDIN LLP			SIPOS, JOHN	
7 TIMES SQUARE			ART UNIT	
NEW YORK, NY 10036-7311			PAPER NUMBER	
			3721	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/830,143	Applicant(s) SCHNEIDER ET AL.	
	Examiner John Sipos	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 13-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

MISCELLANEOUS

Claim 16 seems to be incorrect in the Amendment of January 24, 2005 in that it is indicated as an "original" claim while its dependency has been changed from claim 15 to claim 13. Clarification is requested.

DRAWINGS

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feeding of the packaging film outside of the folding box and within the guide bars must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

OBJECTIONS/REJECTIONS BASED ON FORMAL MATTERS

The amendment filed January 25, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The disclosure does not set forth the claimed feeding of the packaging film outside of the folding box and within the guide bars. Applicant refers for support of this feature to the first two lines of page 6 of the specification which state that "Alternatively the film could be fed about the forming box and the guide bars adjusted accordingly.". This may provide support for the feeding of the film outside of the folding box but not for feeding the film within the guide bars. The disclosure sets forth only the feeding of the film outside of the guide bars and the drawings show only such feeding (see Figure 2-9). The film could be fed either inside or outside of the guide bars and without specific reference to moving the film within the guide bars this is considered as new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claims 13-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention (see the objection to the specification set forth above).

The specification is objected to under 37 CFR 1.71 as failing to adequately teach how to make and use the invention, i.e. failing to provide an enabling disclosure. (A rejection of claims based on this objection follows this paragraph.) The structure of the supporting conveyor with a longitudinal slit is not sufficiently set forth and its structure is not clear. How does a conveyor structured to have a slit accommodating the longitudinal edges of the film?

Claims 15-17 are rejected under **35 U.S.C. ' 112, first paragraph**, as being predicated on an **insufficient disclosure** for the reasons set forth in the objection to the specification set forth above.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Applicant's arguments have been considered but are not persuasive and on the assumption that the new matter will be cancelled, the rejections made in the last Office action are repeated.

Claims 13 and 14 are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Suga (5,109,654). The patent to Suga shows a packaging method that comprises moving a packaging sheet within a forming box 11, about guide bars 23 that extend downstream from the outlet end of the forming box and onto supporting conveyor 14. The tube of wrapped articles is then cross sealed at 41 to form

individual packages. Regarding claim 14, the structure set forth in the claim is given little patentable weight since it doesn't affect the process steps. Note that the claimed step of feeding the product through the forming box is shown by Suga.

Claims 18-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Suga (5,109,654) in view of the Admitted Prior Art. As was stated in the last Office action, the use of transverse or longitudinal zippers on packaging films is well known in the art and the examiner takes Official Notice that their use is common knowledge in the packaging art. In view of these assertions made by the Examiner and Applicants silence regarding them, such zipper features are considered as admission of prior art. The modification of the Suga operation by providing the film web with such transverse or longitudinal zippers would have been obvious to one skilled in the art for the known benefits of these zippers, e.g. to provide a mechanism for easily opening and closing the packages.

Claims 13-17 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Leino (4,970,846) in view of Fujiwara (6,119,435) or Cassoli (4,679,379) or Fujiwara (6,119,435) or Cassoli (4,679,379) in view of Leino (4,970,846).

The patent to Leino shows the moving of a packaging sheet within a forming section 20 to fold the sheet downwardly, feeding the sheet and article onto supporting conveyors 54a,54b having a slit in-between, feeding and sealing the longitudinal edges of the sheet in the slit at 46 and cross sealing the sheet at 30 to form individual packages. .

The patents to Fujiwara and Cassoli show packaging methods that comprise moving a packaging sheet within a forming box 31 and 67, respectively, about guide bars 32 and 40, respectively, that extend downstream from the outlet end of the forming box and onto supporting conveyors 28 and 70, respectively. The articles are fed between the guiding bars which in turn aid in guiding the sheet onto the articles. These two references teach the guiding of the center of the sheet to the bottom of the forming box rather than to the top of the forming box as recited in the claims.

It would have been obvious to one of ordinary skill in the art to provide guide bars to the forming section of Leino to aid in the guiding of the sheet while feeding the article as taught by Fujiwara or Cassoli positively guide the article and conform the sheet around the article through the forming section. Alternatively, it would have been obvious to one of ordinary skill in the art to reverse the upward folding operation of Fujiwara or Cassoli to a downward folding operation and use lit supporting conveyors as shown by Leino.

Claims 18-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Leino (4,970,846) in view of Fujiwara (6,119,435) or Cassoli (4,679,379) or Fujiwara (6,119,435) or Cassoli (4,679,379) in view of Leino (4,970,846) and further in view of the Admitted Prior Art. As was stated in the last Office action, the use of transverse or longitudinal zippers on packaging films is well known in the art and the examiner takes Official Notice that their use is common knowledge in the packaging art. In view of these assertions made by the Examiner and Applicants silence regarding them, such zipper features are considered as admission of prior art. The modification of

the operation of the basic references by providing the film web with such transverse or longitudinal zippers would have been obvious to one skilled in the art for the known benefits of these zippers, e.g. to provide a mechanism for easily opening and closing the packages.

The following rejections are further made assuming that the new matter is maintained in the claims.

Claims 13,14 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Kameda (4,715,166). The patent to Kameda shows a packaging method that comprises moving a packaging sheet outside of a forming box 13 and within guide bars 14 that extend outside of the forming box and onto supporting conveyor 12,19. The tube of wrapped articles is then cross-sealed at 21 to form individual packages. The claimed method and the one set forth in Kameda are the same with the only difference being in the apparatus in that the folding bars of Kameda do not extend downstream of the folding box. To ensure proper and positive folding it would have been obvious to one skilled in the art to extend the folding bars past the outlet end of the folding box. Regarding claim 14, the structure set forth in the claim is given little patentable weight since it doesn't affect the process steps. Note that the claimed step in claim 14 of feeding the product through the forming box is shown by Kameda.

Claims 18-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Kameda (4,715,166) in view of the Admitted Prior Art. As was stated in the last Office action, the use of transverse or longitudinal zippers on packaging films is well

known in the art and the examiner takes Official Notice that their use is common knowledge in the packaging art. In view of these assertions made by the Examiner and Applicants silence regarding them, such zipper features are considered as admission of prior art. The modification of the Kameda operation by providing the film web with such transverse or longitudinal zippers would have been obvious to one skilled in the art for the known benefits of these zippers, e.g. to provide a mechanism for easily opening and closing the packages.

Claims 13-17 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Leino (4,970,846) in view of Kameda (4,715,166).

The patent to Leino shows the moving of a packaging sheet within a forming section 20 to fold the sheet downwardly, feeding the sheet and article onto supporting conveyors 54a,54b having a slit in-between, feeding and sealing the longitudinal edges of the sheet in the slit at 46 and cross sealing the sheet at 30 to form individual packages. .

It would have been obvious to one of ordinary skill in the art to provide guide bars and forming box to the forming section of Leino to aid in the guiding of the sheet while feeding the article as taught by Kameda to positively guide the article and conform the sheet around the article through the forming section.

Claims 18-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Leino (4,970,846) in view of Kameda (4,715,166) in view of the Admitted Prior Art. As was stated in the last Office action, the use of transverse or longitudinal zippers on packaging films is well known in the art and the examiner takes Official

Notice that their use is common knowledge in the packaging art. In view of these assertions made by the Examiner and Applicants silence regarding them, such zipper features are considered as admission of prior art. The modification of the Leino operation by providing the film web with such transverse or longitudinal zippers would have been obvious to one skilled in the art for the known benefits of these zippers, e.g. to provide a mechanism for easily opening and closing the packages.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are not persuasive.

Regarding the objection to the specification concerning the longitudinal slit in the conveyor, the Examiner does not contend that there is no support for the claimed language but rather that the structure of such a slit in a conveyor is unclear and not sufficiently set forth. How can there be a slit in a moving conveyor? The drawings may show a separation of the conveyor into two portions but not a "slit" but no structure is shown to support a slit in a single conveyor.

PRIOR ART

Note the previously cited patents to Meissner, Cassoli and Kovacs which show the use of an interior folding box and exterior folding bars.

Newly cited patents to Ereksen, Tigerman and Winkler also show such use of an interior folding box and exterior folding bars.

Newly cited patents to Kiner and Lin show inclined folding boxes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4668**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.



John Sipos
Primary Examiner
Art Unit 3721